STATE OF NEW YORK

8289

2021-2022 Regular Sessions

IN ASSEMBLY

October 6, 2021

Introduced by M. of A. FAHY -- read once and referred to the Committee on Banks

AN ACT to amend the general municipal law and the banking law, in relation to allowing credit unions, savings banks, savings and loan associations and federal savings associations to accept and secure deposits from municipal corporations; to direct the department of financial services to conduct a study and issue a report concerning the impact of allowing certain financial institutions to accept local government public deposits; and providing for the repeal of certain provisions upon the expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph d of subdivision 1 of section 10 of the general municipal law, as amended by chapter 623 of the laws of 1998, is amended to read as follows:

d. "Bank" shall mean a bank as defined by the banking law or a national banking association located and authorized to do business in New York**; a savings bank as defined by the banking law, a savings and loan association as defined by the banking law or a federal savings association located and authorized to do business in New York which has its principal office in a location described in paragraph (a) of subdivision two of section two hundred thirty-seven of the banking law, or a branch office in a location described in paragraph (b) of subdivision two of section two hundred thirty-seven of the banking law**.

§ 2. Section 10 of the general municipal law is amended by adding a new subdivision 5 to read as follows:

5. In addition to the financial institutions authorized to accept public deposits in subdivision two of this section, credit unions, as defined by the banking law or a federal credit union located and authorized to do business in New York which has its principal office in a location described in paragraph (a) of subdivision thirty-eight of

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD05504-01-1

section four hundred fifty-four of the banking law, or a branch office in a location described in paragraph (b) of subdivision thirty-eight of section four hundred fifty-four of the banking law, may accept public deposits by a local government subject to the limitations set forth herein. For the calendar year beginning January first, two thousand twenty-two, the governing board of a local government may designate one or more credit unions, for the deposit of public funds in an amount not to exceed five hundred thousand dollars in each institution. For the calendar year beginning January first, two thousand twenty-three, the governing board of a local government may designate one or more credit unions for the deposit of public funds in an amount not to exceed one million dollars in each institution. For the calendar year beginning January first, two thousand twenty-four, the governing board of a local government may designate one or more credit unions for the deposit of public funds in an amount not to exceed two million dollars in each institution. For the calendar year beginning January first, two thousand twenty-five, the governing board of a local government may designate one or more credit unions for the deposit of public funds in an amount not to exceed three million dollars in each institution. For the calendar year beginning January first, two thousand twenty-six, the governing board of a local government may designate one or more credit unions for the deposit of public funds in an amount not to exceed four million dollars in each institution. For the calendar year beginning January first, two thousand twenty-seven, the governing board of a local government may designate one or more credit unions for the deposit of public funds in an amount not to exceed five million dollars in each institution. For the purposes of this section, a deposit limit shall mean the maximum amount of all funds of a local government in an institution based on a daily account balance excluding any accrued interest.

§ 3. Section 454 of the banking law is amended by adding a new subdivision 38 to read as follows:

38. (a) To accept deposits for credit to a local government, as defined in paragraph a of subdivision one of section ten of the general municipal law, at its principal office where such credit union maintains its principal office within the jurisdiction of such local government.

(b) To accept deposits for credit to a local government, as defined in paragraph a of subdivision one of section ten of the general municipal law, at its branch office where such credit union maintains a branch office within the jurisdiction of such local government.

§ 4. The banking law is amended by adding a new section 454-a to read as follows:

§ 454-a. Deposits of public money with credit unions; security. A credit union may accept deposits of public money subject to the limitations provided in subdivision thirty-eight of section four hundred fifty-four of this article. Such credit union shall pledge assets or furnish other security satisfactory in form and amount to the depositor, for the repayment of monies held in the name of such depositor, when required to be secured by applicable law, decree or regulation.

§ 5. The banking law is amended by adding a new section 454-b to read as follows:

§ 454-b. Community investment by credit union; condition of accepting municipal deposits. 1. If the average daily balance of the municipal funds on deposit at the credit union for the preceding year is in excess of three hundred thousand dollars, the chief financial officer, or the senior official in the credit union with responsibility for performing the functions of a chief financial officer of a credit union that choos-

es to accept municipal deposits pursuant to section ten of the general municipal law, shall, consistent with safety and soundness, transmit to the department by December thirty-first each year, a written certification, in a form specified by the superintendent and posted on the department's website, that the credit union has invested into the community, pursuant to this section, a sum equal to the average daily balance, multiplied by a factor of .0035, provided, however, in no event, shall a credit union be required to contribute a sum in excess of one hundred thousand dollars in any one year.

2. The community investment described in subdivision one of this section shall be used to support any of the following purposes, as determined by the credit union, in any community where such credit union has authority to provide services, provided the credit union shall prioritize low-income communities when choosing where to invest:

(a) minority and women-owned business enterprises in the community; or

(b) affordable housing (including multifamily rental housing) for low- and moderate-income individuals in the community; or

(c) community services targeted to low- and moderate-income individuals in the community; or

(d) activities that revitalize or stabilize the community including low- or moderate-income geographies, or designated disaster areas; or

(e) financial literacy.

3. For purposes of the community investment pursuant to this this section, field of membership restrictions shall not apply.

§ 6. Subdivision 2 of section 237 of the banking law, as amended by chapter 360 of the laws of 1984, is amended to read as follows:

2. [~~No savings bank shall accept any deposit for credit to any municipal corporation.~~] (a) A savings bank which maintains its principal office within the jurisdiction of a local government, as defined in paragraph a of subdivision one of section ten of the general municipal law, may accept deposits at such principal office for credit to such local government.

(b) A savings bank which maintains a branch office within the jurisdiction of a local government, as defined in paragraph a of subdivision one of section ten of the general municipal law, may accept deposits at such branch office for credit to such local government.

§ 7. Section 234 of the banking law is amended by adding a new subdivision 27 to read as follows:

27. Pursuant to subdivision two of section two hundred thirty-seven of this article, to pledge assets or furnish other security satisfactory in form and amount to the depositor, for the repayment of monies held in the name of such depositor, when required to be secured by applicable law, decree or regulation and to exercise the powers contained in section ninety-six-b of this chapter.

§ 8. Section 383 of the banking law is amended by adding a new subdivision 18 to read as follows:

18. Pursuant to subdivision two of section two hundred thirty-seven of this chapter, to pledge assets or furnish other security satisfactory in form and amount to the depositor, for the repayment of monies held in the name of such depositor, when required to be secured by applicable law, decree or regulation and to exercise the powers contained in section ninety-six-b of this chapter.

§ 9. 1. The department of financial services is hereby authorized and directed to study and issue a public report with recommendations, concerning the impact of allowing credit unions, savings banks, savings and loan associations or federal savings associations to accept local

government public deposits. This report shall be prepared in consultation with stakeholders, including local governments, banks, credit unions, savings banks, savings and loan associations and federal savings associations.

2. On or before January 1, 2027, the superintendent of financial services shall submit to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate standing committee on banks, and the chair of the assembly standing committee on banks, a written report detailing the findings and recommendations on the department's study performed in accordance with subdivision one of this section. The superintendent shall use reasonable efforts to identify any impacts by expanding the financial institutions eligible to accept municipal deposits and shall include the following information in the report:

(a) An analysis of deposits held in banks including the size of the bank's assets, location of banks, type of bank charter, changes in the amount of commercial bank held deposits from the effective date of this act and overall impact on banking industry, in particular small community banks.

(b) The growth of municipal deposits held in credit unions, savings banks, savings and loan associations or federal savings associations after the effective date of this act.

§ 10. Section 86 of the banking law, as amended by chapter 274 of the laws of 2007, is amended to read as follows:

§ 86. Eligibility. 1. **For the purposes of this article, the term "community bank institution" shall mean any state or federally chartered banking institution and shall include any bank, trust company, savings bank or savings and loan association with less than ten billion dollars in assets that is headquartered in this state and whose predominant retail and commercial banking operations serve residents and businesses of this state, as determined by the superintendent in his or her sole discretion and pursuant to such rules and regulations as the superintendent deems necessary to implement and administer these provisions.**

2. To be eligible to receive deposits, or to renew existing deposits under this program[~~, a bank, trust company, savings bank or savings and loan association: (a) must be chartered under the provisions of this chapter and (b)~~] **a community bank institution:**

(a) must have a current CRA rating of satisfactory or better. The superintendent shall, if requested by the state comptroller or the commissioner of taxation and finance, confirm whether a particular banking institution meets the criteria specified in this section**; and**

(b) meet any additional criteria established by the comptroller and the commissioner of taxation and finance to determine eligibility for participation in the program. Such criteria may include an institution's loan to deposit ratio, its record of small business lending, and the impact such deposits would have on an area's economic activity.

[~~2. A federal bank, trust company, savings bank or savings and loan association may also be eligible to receive deposits, or to renew existing deposits, under this program if: (a) its principal office is located in this state; (b) it has a current CRA rating of satisfactory or better; and (c) it meets any additional criteria established by the comptroller and the commissioner of taxation and finance to determine eligibility for participation in the program. Such criteria may include an institution's loan to deposit ratio, its record of small business lending, and the impact such deposits would have on an area's economic activity.~~]

§ 11. Section 87 of the banking law, as amended by chapter 274 of the laws of 2007, subdivision 2 as amended by chapter 495 of the laws of 2013, is amended to read as follows:

§ 87. Deposits. 1. Notwithstanding any provisions of law to the contrary, the state comptroller and the commissioner of taxation and finance shall, for the purposes of administering moneys in accordance with the provisions of sections ninety-eight-a and one hundred five of the state finance law, give consideration to depositing funds into those community banking institutions which are deemed eligible to receive deposits pursuant to section eighty-six of this article.

2. The maximum amount of funds which the state comptroller and the commissioner of taxation and finance may deposit under this program shall not exceed [~~two~~] three hundred [~~fifty~~] million dollars each. [~~The maximum amount of funds on deposit at a community banking institution shall not exceed twenty million dollars.~~]

3. Notwithstanding any provision of law to the contrary, any deposits made pursuant to this article shall be made at rates, and for such periods of time, as may be agreed to by the state comptroller or the commissioner of taxation and finance and the eligible community banking institution.

4. Any deposits made pursuant to this article may be secured by an irrevocable letter of credit issued by a federal home loan bank.

5. The comptroller and the commissioner of taxation and finance shall annually submit a joint report to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the senate standing committee on banks, and the chair of the assembly standing committee on banks on the efficacy of the community bank deposit program, including information on the number of qualified community banking institutions, the number of community banking institutions which have received deposits, the size of each participating community bank, the number and amount of such deposits and the percentage of total state funds deposited in such institutions under this program.

§ 12. No municipal deposits held in credit unions by local governments on December 31, 2027 shall be required to be withdrawn upon the expiration of this act.

§ 13. This act shall take effect on the ninetieth day after it shall have become a law; provided that sections two, three, four, five and nine of this act shall expire and be deemed repealed December 31, 2027.